

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend a rule, LAC 76:VII.329, which provides for a special bait dealer's permit program. Authority to establish these regulations is vested in the Commission by R.S. 56:497(C). Said rule is attached and made a part of this Notice of Intent.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

§329. Special Bait Dealer's Permit

A. Policy. The special bait dealer's permit is intended solely for the benefit of the recreational fishing public which desires to use live shrimp and live croaker as bait during the closed ~~season between the spring and fall~~ shrimp seasons. Its purpose is to allow the uninterrupted operation of those commercial establishments which sell live bait shrimp and live croaker to the fishing public during the closed shrimp seasons. ~~beginning May 1 of each year until the opening of the spring inshore shrimp season and between the spring and fall shrimp season.~~ The permit is not intended for the direct use of

recreational fishermen, charter boats, commercial fishermen who sell dead shrimp or croaker, or for any other entity which may wish to catch shrimp or croaker for their own use during the closed shrimp seasons.

B. Application

1. Applicants wishing to sell live shrimp or live croaker harvested from Louisiana waters during closed shrimp season must apply for a Special Bait Dealer Permit from the Department for a fee of \$110.00. ~~Applications for the special bait dealer's permit will be accepted from January 1 through December 31 April 30 of each year. All applications should be mailed to the department via certified mail.~~

2. The Special bait dealer's permit shall be valid for one year beginning January 1st and ending December 31st of that same calendar year. The permit may be purchased at any time during the year for the current permit year and beginning November 15th for the immediately following permit year. ~~Applications will be accepted only from the owner of an existing business which sells or plans to sell live bait to recreational fishermen.~~

3. Applications will be accepted only form the owner of an onshore business which sells or plans to sell live shrimp or live croaker to recreational fisherman. ~~Applications must be~~

~~notarized and made on forms provided by the department; all information requested must be provided before the application will be processed.~~

4. Applicant shall be responsible for acquiring and possessing all proper licenses including the wholesale/retail seafood dealers license. ~~Applicants must hold show proof of having acquired all necessary licenses and permits before the permit will be issued. This includes, if relevant, boat registration, vessel license, gear license, commercial fishing licenses, and name of fisherman; wholesale/retail seafood dealers license, state sales tax number, and a copy of the applicant's and the fisherman's valid driver's license. A background check for wildlife violations of the applicant and the fisherman will be made. Any person convicted of any Class Two or greater wildlife or fisheries violation within the previous 3 years prior to the date of application shall not qualify to obtain a special bait dealer's permit or be onboard any vessel engaged in permitted activities.~~

5. Any person convicted of any Class Three or greater wildlife or fisheries violation within the previous 3 years prior to the date of application shall not qualify to obtain a special bait dealer's permit or be onboard any vessel engaged in permitted activities.

6. 5. Applicant ~~Beginning in 2008, applicant~~ must post a \$1,000 cash bond before the permit is issued. This bond will be forfeited if the permittee, his employee, or his contractor violates any provision of the rules and regulations concerning the special bait dealer's permit or if the permittee, his employee, or his contractor violates any commercial fishing law or regulation while operating under the permit. ~~The fee for the special bait dealer's permit shall be \$110.~~

7. All new applications shall require an inspection by the Department of their onshore facility and vessel prior to permit being issued. Subsequent inspections may be required at renewal. Inspection requirements shall verify applicant is operating a commercial establishment which sells live shrimp or live croakers to the fishing public for use as bait and shall include:

a. Onshore facility able to maintain live shrimp or live croakers;

b. Onshore facilities and vessel tanks must have provisions for aeration and/or circulation of the water in which live shrimp or live croakers are held;

c. Onshore facility holding tanks must have a minimal combined capacity of 300 gallons. Tanks having less than 30

gallon capacity will not be included in combined on shore facility capacity;

d. Vessel tanks must be carried on or built into the vessel and have a minimum of one compartment or tank with a minimum capacity of 30 gallons;

e. Notice to the public must be posted that live bait is available.

~~6. Before the permit is issued an agent of the department must inspect the facilities of the applicant and verify that the applicant is operating a commercial establishment which sells live shrimp or live croaker to the fishing public for use as bait, and that the applicant does have facilities to maintain live shrimp or croaker. Notice to the public must be posted that live bait shrimp or croaker are available for sale. The applicant must have onshore facilities, including tanks with a combined minimum capacity of 300 gallons, available to hold live shrimp or live croaker. These tanks must have provisions for aeration and/or circulation of the water in which live shrimp or croaker are held prior to sale. In determining total tank capacity of onshore facilities, the agent shall not count any tank with a capacity of less than 30 gallons.~~

8. Only the vessel and those commercial fishermen specified at the time of application shall operate under the

permit. Amendments to vessel or commercial fishermen listed under the permit must be submitted to the Department and approved before the new vessel or commercial fisherman can operate under the permit. 7. ~~Only the applicant, his designated employee, or his contractor may operate under the permit. At the time of application, the applicant will specify the vessel and who will be working under the permit. Should the vessel or these persons change, the applicant shall submit an amended application listing the vessel or those persons and be in receipt of an approved amended permit before the new vessel or persons operate under the permit.~~ The permit is not transferable to any other person or vessel. The entire original permit must be carried on the vessel while in operation.

8. ~~No person shall transfer any shrimp or croaker taken under a permit from one vessel to another.~~

C. Operations

1. The entire original permit must be in the possession of the commercial fisherman while operating under the conditions of the permit. Only the vessel and those commercial fisherman specified at the time of application shall operate under the permit. No other vessel or commercial fisherman shall be used under this permit. ~~captains listed in the permit shall be used with the permit. Live wells, aeration tanks, and other vessel~~

~~facilities to maintain live shrimp or croaker must be carried on or built into this vessel; it must be used for both taking and transporting the live shrimp or croaker. The vessel must have a minimum of one compartment or tank with a minimum capacity of 30 gallons. No other vessel may be used under the permit. Signs which identify the vessel as working under the special bait dealer's permit shall be posted on the vessel. These signs shall be visible from either side of the vessel and from the air; the word "BAIT" and the permit number shall be placed on these signs in letters at least 12 inches high.~~

~~2. Permitted gear is limited to one trawl not to exceed 25 feet along the cork line 33 feet along the lead line or two skimmer nets having an individual net frame size not more than 12 and 1/2 feet measured horizontally or 12 feet measured vertically or 17 feet 4 inches measured diagonally. These are the only gears which can be used or carried aboard the permitted vessel while the vessel is operating under the permit; no other commercial fishing gear may be on the vessel when it is being used under permit.~~

2. Live wells, aeration tanks, and other vessel facilities to maintain live shrimp or croaker must be carried on or built into this vessel while operating under the conditions of the permit.

3. No person shall transfer any shrimp or croaker taken under a permit from one vessel to another unless both vessels are permitted under the same wholesale/retail seafood dealer, and the captain of the harvesting vessel has signed a trip ticket for the harvested bait, and the bait is then transported directly to the wholesale/retail seafood dealer under which both vessels are operating; upon receiving the harvested bait the dealer shall complete the trip ticket.

4. While operating under the conditions of the permit, no shrimp or croaker may be sold from the vessel to anyone other than the licensed wholesale/retail seafood dealer listed on the permit during the closed shrimp seasons.

5. Signs which identify the vessel as working under the special bait dealer's permit shall be posted on the vessel. These signs shall be visible from either side of the vessel and from the air; the word "BAIT" and the permit number shall be placed on these signs in letters at least 12 inches high.

~~6.3.~~ No more than two gallons of dead shrimp or croaker or combination thereof may be aboard the vessel while it is operating under the permit. All dead shrimp or croaker or combination thereof in excess of two gallons must be immediately returned to the water. Shrimp or croaker dying in onshore

holding facilities may be sold for bait use only. ~~, in lots not to exceed 16 ounces in weight.~~

7. Permitted gear is limited to one trawl not to exceed 25 feet along the cork line 33 feet along the lead line or two skimmer nets having an individual net frame size not more than 16 feet measured horizontally or 12 feet measured vertically or 20 feet measured diagonally. These are the only commercial fishing gears which can be used or carried aboard the permitted vessel while the vessel is operating under the permit; no other commercial fishing gear other than unserviceable crab traps as described in R.S. 56:322(G) may be on the vessel when it is being used under the permit.

~~8.4.~~ Bait shrimp or croaker may be taken only from official sunrise to official sunset; however, the Department at its discretion, may designate the areas and hours of night time operations under the permit provided permitted vessels are equipped with a working vessel monitoring system as described in LAC 76:VII.371. no night fishing is allowed under this permit.

~~5. The entire original permit must be in possession of the person operating the vessel while it is engaged in taking shrimp or croaker under the terms of the permit.~~

~~9.6~~ Each time the permit is used the permittee must notify the Department by contacting the Communications Section on the

designated toll free telephone number provided on the permit and recording the confirmation number received. Before the vessel departs the dock under the permit, the Department must be advised of the time of departure and the sub-basin code corresponding to the Department's trip ticket sub-basin map in which trawling or skimming will take place; immediately after the permitted vessel returns to the dock the Department must be notified of the time of return by contacting the Communications Section on the designated toll free telephone number provided on the permit.

10.7 The permittee shall maintain an up-to-date record of the activities conducted under the permit on forms provided by the Department for that purpose. These records shall be kept onboard the vessel and made available for inspection by agents of the Department upon request by said agents at any time and shall include the permittee's name and permit number, date, departure time, fishing location, gear used, confirmation number, return time, and number of live shrimp or live croaker harvested. All applicable record information shall be completed before fishing operations begin. In addition, any agent of the Department shall be allowed to make an onsite ~~on-site~~ inspection of any facilities operating under the permit, at any time. ~~Permittee shall submit to the department, not later than January 31 September 1 following the live bait season, this~~

~~record of permit activities on forms provided by the department.~~

Nothing herein this section shall exempt the permittee from trip ticket reporting requirements as provided for in R.S. 56:306.4.

11. Permittee shall submit activity forms to the Department, no later than January 31st, all records of permit activities. Failure to submit these records of permit activities may result in forfeiture of the permittee's bond and/or denial of the applicant's permit renewal.

D. Penalties

1. No person shall violate any provision of this Section. Violations of any provision of this Section shall constitute a Class 4 violation as defined in R.S. 56:34.

AUTHORITY NOTE: Promulgated in accordance with LA R.S. 56:326.3 and 56:497(C).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, and Wildlife and Fisheries Commission, LR 3:210 (April, 1977), amended LR 15:867 (October, 1989), LR 19:215 (February, 1993), LR 23:86 (January, 1997), LR 33:864 (May 2007), LR 36:77 (January 2010), LR : .

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this Notice of Intent and final Rule, including but not limited to, the filing of the

fiscal and economic impact statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit written comments relative to the proposed rule to Mr. Martin Bourgeois, Marine Fisheries Biologist DCL-B, Marine Fisheries Section, Box 189, Bourg, LA 70343, prior to November 1, 2012.

In accordance with Act No. 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Ann L. Taylor

Chair